

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DANIEL M. BAHENA,	§
	§ No. 572, 2006
Petitioner Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for Sussex County
STATE OF DELAWARE,	§ C.A. No. 06M-09-012
	§
Respondent Below-	§
Appellee.	§

Submitted: December 5, 2006

Decided: January 30, 2007

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices

**ORDER**

This 30<sup>th</sup> day of January 2007, it appears to the Court that:

(1) On September 26, 2006, pursuant to the State of Delaware's petition, the Superior Court ordered the forfeiture of a motor vehicle owned by Daniel M. Bahena. On October 5, 2006, Bahena filed a petition in the Superior Court for return of the motor vehicle as well as \$1,300 in cash. On October 17, 2006, the Superior Court vacated its forfeiture order and consolidated Bahena's petition for return of property with the forfeiture proceedings. A scheduling conference was then set for January 2, 2007.

(2) On October 23, 2006, Bahena filed a notice of appeal from the Superior Court's September 26, 2006 order directing forfeiture of his motor

vehicle. The Clerk of the Court subsequently issued a notice pursuant to Supreme Court Rule 29(b) directing the appellant to show cause why the appeal should not be dismissed for his failure to comply with Rule 42 when taking an appeal from an apparent interlocutory order.

(3) On October 31, 2006, the Clerk received Bahena's response to the notice to show cause. In his response, he states that he was unaware of any actions by the Superior Court since the issuance of its September 26, 2006 order. On December 5, 2006, the State of Delaware filed a motion to dismiss the appeal on the ground that it is interlocutory because the Superior Court has not yet issued its final order.

(4) Supreme Court Rule 42 sets forth the requirements for filing an interlocutory appeal. The appellant has not complied with those requirements. Absent compliance with Rule 42, this Court has no jurisdiction to consider this appeal. Moreover, because the Superior Court vacated the order being appealed, the appeal is now moot.

NOW, THEREFORE, IT IS ORDERED that, pursuant to Supreme Court Rule 29(b), the appeal is DISMISSED.

BY THE COURT:

/s/Henry duPont Ridgely  
Justice